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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
07/728,428	07/11/1991	JO ANN M. CANICH	89B010-D-1	5216

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EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 07/728,428	Applicant(s) CANICH, JO ANN M.	
	Examiner Roberto Rábago	Art Unit 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,27,41 and 44-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 and 41 is/are allowed.
- 6) ☒ Claim(s) 5 and 44-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The new version of Table 1 filed 2/11/2005 is objected to because it has not included the amendment filed 10/22/1992 wherein the heading of the first column was changed to "T". Correction is required.

Double Patenting

2. Claims 5 and 44-47 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 27-32 of U.S. Application No. 07/973,261. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims encompass the copending claims. Specifically, the copending claim set forth a subgeneric set of metallocene compounds, and if the copending claims were prior art, they would form the basis of a rejection under 35 USC 102.

3. Claims 5 and 44-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 5 and 6 of U.S. RE37,788. Although the conflicting claims are not identical, they are not patentably distinct from each other because, except for the patented claims including Ti as a choice for M, the instant claims encompass the patented claims. However, one of ordinary skill in the art would immediately envisage each of Zr and Hf from the

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disclosure of the group of Ti, Zr and Hf, and therefore if the copending claims were prior art, they would form the basis of a rejection under 35 USC 102.

4. Claims 5 and 44-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, and 4-9 of U.S. 5,955,625. Although the conflicting claims are not identical, they are not patentably distinct from each other because, except for the patented claims including Ti as a choice for M, the instant claims encompass the patented claims. However, one of ordinary skill in the art would immediately envisage each of Zr and Hf from the disclosure of the group of Ti, Zr and Hf, and therefore if the copending claims were prior art, they would form the basis of a rejection under 35 USC 102.

5. Claims 5 and 44-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 5 and 6 of U.S. 5,621,126. Although the conflicting claims are not identical, they are not patentably distinct from each other because, except for the patented claims including Ti as a choice for M, the instant claims encompass the patented claims. However, one of ordinary skill in the art would immediately envisage each of Zr and Hf from the disclosure of the group of Ti, Zr and Hf, and therefore if the copending claims were prior art, they would form the basis of a rejection under 35 USC 102.

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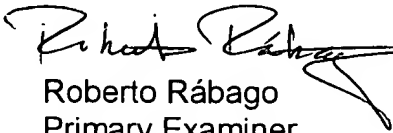
Allowable Subject Matter

6. Claims 27 and 41 are allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roberto Rábago
Primary Examiner
Art Unit 1713

RR
March 24, 2005